

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CONNECTU LLC,

Plaintiff,

v.

MARK ZUCKERBERG, et al.,

Defendants.

CASE NO. C06-1640JLR

Related to: D. Mass.
Case No. C04-11923DPW

ORDER

This matter comes before the court on a motion to quash subpoenas duces tecum from non-parties JohnTaves and Pacific Northwest Software (collectively, “the Non-parties”) (Dkt. # 1). The instant motion is related to an action now pending before the United States District Court for the District of Massachusetts, ConnectU LLC v. Zuckerberg, No. 4-11923 DPW. The court has reviewed the briefs submitted in support of and in opposition to the motion and has heard from the parties during a telephonic conference. For the reasons stated below, the court DENIES as moot in part and DENIES without prejudice in part the motion to quash; the court GRANTS the Non-parties’ motion for a protective order for a limited duration.

In the Massachusetts action, Magistrate Judge Collings is currently considering additional briefing on the question of whether the court has subject matter jurisdiction

1 based on diversity of citizenship. Several defendants in the underlying action (“the
2 Facebook Defendants”) served subpoenas duces tecum on the Non-parties in search of
3 information related to the citizenship of one of the members of the Plaintiff corporation
4 (an LLC). The Non-parties now move to quash the subpoena on grounds that it is
5 overbroad, unduly burdensome, and untimely. As of the date of this order, Judge
6 Collings has not made a ruling on whether the Massachusetts court has diversity
7 jurisdiction.

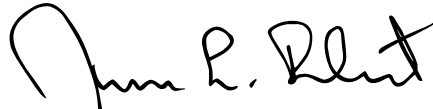
8 In the interest of judicial economy, the court concludes that discovery directed at
9 the Non-parties should be confined to information related to the jurisdictional dispute.
10 The court concludes that paragraphs 1, 2, and 4 contained in Attachment A to both
11 subpoenas clearly seek information related to the question of citizenship. On their face,
12 the remaining provisions (paragraphs 3, 5, 6, and 7) go much further, although they may
13 include permissible avenues of discovery on non-jurisdictional issues. The non-parties
14 have already complied with paragraphs 1, 2, and 4 of the subpoena and therefore the
15 court DENIES as moot their motion to quash insofar as it relates to these provisions of
16 the subpoenas.

17 The court declines to rule on the propriety of the remaining requests at issue until
18 the Massachusetts court has determined whether it has jurisdiction over the lawsuit. In
19 the interim, the court GRANTS the Non-parties motion for a protective order limiting
20 their production to paragraphs 1, 2, and 4 and to billing records, which the Non-parties
21 have agreed to produce and which are partially responsive to paragraphs 5 and 6 of the
22 subpoenas.

23 If Judge Collings denies the pending motion to dismiss and discovery proceeds,
24 the court directs the parties to meet and confer regarding the outstanding discovery
25 requests. If the dispute remains unresolved, the Non-parties may renew their motion to
26 quash. The court therefore DENIES without prejudice the Non-parties motion to quash
27 as it relates to paragraphs 3, 5, 6, and 7 of the subpoena.
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1 For the reasons stated, the court DENIES as moot in part and DENIES without
2 prejudice in part the motion to quash; the court GRANTS the Non-parties' motion for a
3 protective order for a limited duration (Dkt. # 1).

4 Dated this 21st day of December, 2006.

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7 JAMES L. ROBART
8 United States District Judge
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